

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION
FOR THE
PHOTOGRAPHIC AND
PHOTO FINISHING INDUSTRY

AS APPROVED ON MARCH 23, 1934

BY

PRESIDENT ROOSEVELT



UNITED STATES
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Approved Code No. 362

CODE OF FAIR COMPETITION

FOR THE

PHOTOGRAPHIC AND PHOTO FINISHING
INDUSTRY

As Approved on March 23, 1934

BY

PRESIDENT ROOSEVELT

EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR THE PHOTOGRAPHIC AND PHOTO
FINISHING INDUSTRY

An application having been duly made, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Photographic and Photo Finishing Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said Code of Fair Competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said Code of Fair Competition complies in all respects with the pertinent provisions of Title I of said Act and that the requirements of clauses (1) and (2) of subsection (a) of Section 3 of the said Act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do adopt and approve the report, recommendations and findings of the Administrator and do order that the said Code of Fair Competition be and it is hereby approved; provided, however, that the provisions of Article IX, Section 3, insofar as they prescribe a waiting period between the filing with the Code Authority (i.e. actual receipt by the Code Authority) and the effective date of the revised price lists or revised terms and conditions of sale be and they are hereby stayed pending further order of the Administrator for Industrial Recovery.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

WASHINGTON, D.C.,
March 23, 1934.

LETTER OF TRANSMITTAL

The PRESIDENT,
The White House.

INTRODUCTION

SIR: This is the report of the Administrator to the President on the application for, and public hearing on, a Code of Fair Competition for the Photographic and Photo Finishing Industry as proposed by two national associations, the Photographers' Association of America and the Master Photo Finishers of America. The Code as presented herewith was revised by authorized representatives of the Code Committee in several conferences following the public hearing.

The hearing was conducted in Washington on November 10 and 11, 1933. Every person who requested an appearance was freely heard in accordance with the statutory and regulatory requirements.

There are but two truly national associations, the Photographers' Association of America, founded in 1880, with a membership today of nearly 5,000, and the Master Photo Finishers founded in 1923, with a membership today of 1,721. There are approximately 20,000 units in all branches of the Photographic-Photo Finishing Industry; whereas a majority representation of the proponents is not indicated in number of concerns, I do not doubt that the representation in volume of business is 75% of the Industry.

DEFINITION

The definition of Photographic-Photo Finishing embraces all types of photography except X-ray blue print, photostat, and motion pictures. The definition includes 3 separate Divisions: portrait photography, commercial and illustrative photography, and photo-finishing. The definition embraces a productive function as well as a service. The production and sale of photographs of natural persons, properties, et cetera, for personal as well as for commercial illustrative or professional uses, comprise the definition of the portrait and commercial division of this Code. The photo-finishing division includes the development and/or printing and sale of exposed films and, though productive in a sense, is actually a service in the generally accepted meaning.

ECONOMIC AND STATISTICAL MATERIAL

The combined Photographic and Photo Finishing Industry in 1932 furnished employment to approximately 34,000 employees. In 1929, employees numbered 54,000. The total annual sales in the Industry in 1929 were estimated at \$199,000,000, while in 1932 the aggregate sales were but \$102,000,000. The tremendous decrease in sales, approximately 50% since 1929, can be explained by the fact

that photography in the main is (excepting, of course, some of its commercial aspects) purely a luxury business.

RÉSUMÉ OF THE CODE

The proponents of the Code have established 40 hours per week for all employees other than cameramen and drivers, who are limited to 48 hours; and watchmen, managerial capacity employees, members working in their own behalf, who are limited to 52 hours; and outside salesmen who are without limit. To meet seasonal requirements, there has been provided an overtime allowance of 144 hours in any one calendar year provided that such overtime shall be compensated for at not less than one and one-third times the normal hourly rate.

Evidence was presented at the hearing to indicate that more stringent regulations of hours of employees would work a definite hardship on members of the Industry in view of the crisis which exists in the business at present. In this connection, it should be remembered that the ordinary portrait studio is a very small enterprise and that the endeavor is to provide for regular rather than fitful employment.

A minimum wage of \$15.00 a week, \$14.50 and \$14.00 similar to the President's Reemployment Agreement has been established for all employees except messengers and apprentices who shall be paid not less than \$12.00 a week, and except cameramen and drivers for whom the minimum wage shall be increased proportionately, so that the minimum wage for this latter class of workers shall be not less than 48 times the proportionate hourly rate as set forth in Article IV, Section 1 of the Code.

It should be noted that the August 1933 employment level had increased by 2,156 or approximately 7%. It would seem that this represents a fair picture of the effect of the President's Reemployment Agreement and while the increase is not large, nevertheless in view of the very bad financial condition of the Industry and the great number of employees who have been carried on the payrolls in spite of greatly decreased volume, it is believed to be a creditable showing. It is estimated that the wage paid today by the Industry averages \$11.00 per week. This figure includes many delivery boys and apprentices who have been paid as low as \$5.00 per week. The operation of the minimum wage scale to this class of employees as well as those in the upper brackets will contribute considerably to the purchasing power deriving from the Industry.

The administration of the Code closely follows the lines recommended by the N.R.A. Legal Division. The Code Committee is arranging for the nomination and election of the Industry members of the Code Authority, such arrangements to be completed not later than May 15, 1934, which should allow time for the thousands of units to become familiar with the Code and its operation. In the interim, the Code Committee for the Photographic and Photo Finishing Industry is serving in this capacity.

Attention should be called to the Trade Practice Section, Article VIII. Many evils have arisen within the Industry. These pertain particularly to the practice of selling coupons. This method of sale has resulted in a high pressure type of selling open to abuse. Cer-

tain coupon salesmen have been known to flood a city with their coupons and then disappear, there being no studio to which a purchaser of a coupon may go to complete the contract. Better Business Bureaus have advocated an outright prohibition of this method of sale, however the Code attempts to control and regulate this method equitably (Article VIII, 2 (a), and the entire Schedule B).

Secondly, in many instances, the soliciting from house to house method of sale, or the soliciting of business outside of the trading area in which an owner has a permanent studio have at times developed into an unsatisfactory situation for the customer. The customer has no definite means of gaining satisfaction since the so-called itinerant photographer has no permanent studio. This method will be controlled upon the approval of the Code. It is felt that methods have developed within the Industry which have been unethical and which have tended hitherto to create a loss of faith by the consuming public in this business.

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practice, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) The Code complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant associations are industrial associations truly representative of the aforesaid Industry; and that the said associations impose no inequitable restrictions on admission to membership therein.

(c) The Code is not designed to and will not permit monopolies or monopolistic practices.

(d) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(e) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For these reasons, I recommend approval of this Code.

Respectfully,

HUGH S. JOHNSON,
Administrator.

MARCH 21, 1934.

CODE OF FAIR COMPETITION FOR THE PHOTOGRAPHIC AND PHOTO FINISHING INDUSTRY

ARTICLE I—PURPOSE

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are hereby established as a Code of Fair Competition for the Photographic and Photo Finishing Industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

1. The term "Photographic and Photo Finishing Industry" as used herein includes the production and sale of photographic reproductions and/or prints, plates, or packs, and/or the printing thereof and such related branches or subdivisions as may from time to time be included under the provisions of this Code. This term shall not include blue-printing, photostating, X-raying, and motion pictures. The three Divisions of this Industry are:

(a) Portrait photography, which includes the production and sale of photographic reproductions of persons for other than commercial or professional uses.

(b) Commercial photography, which includes the production and sale of photographic reproductions of persons for commercial or professional uses, properties, chattels, and documents.

(c) Photo finishing, which includes the development, and/or printing or exposed photographic films, plates, or packs for a consideration.

2. The term "employee" as used herein includes anyone engaged in the Industry, however compensated, except anyone in so far as he is acting as an employer. The term employee shall include any agent or representative of any member of the Industry irrespective of the nature of the agreement governing the relationship.

3. The term "employer" as used herein includes anyone by whom any such employee is compensated or employed.

4. The term "member of the Industry" includes anyone engaged in the Industry as above defined, either as an employer or on his own behalf.

5. The term "trade area" as used herein means any area designated as a trade area by the Code Authority.

6. The terms "President", "Act", and "Administrator", as used herein, mean, respectively, the President of the United States, Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

7. Population for the purposes of this Code shall be determined by reference to the latest Federal Census.

ARTICLE III—HOURS

No cameraman or driver shall be permitted to work in excess of forty-eight (48) hours in any one week provided, however, that the minimum wages set forth in Article IV, Section 1, for a forty (40) hour week, shall be proportionately increased so that the minimum for these workers referred to herein shall be forty-eight (48) times the proportionate hourly rate set forth in Article IV, Section 1, Paragraph 1.

2. No watchman, member of the Industry working on his own behalf, or employee engaged in a managerial capacity receiving Thirty-five (\$35.00) Dollars a week or more, shall be permitted to work in excess of fifty-two (52) hours in any one (1) week.

3. No other employee except outside salesmen shall be permitted to work in excess of forty (40) hours in any one (1) week.

4. In addition to the maximum hours hereinabove set forth, employees may be permitted to exceed said maximum by not more than one hundred forty-four (144) hours in any one calendar year, provided all such additional hours worked shall be compensated for at not less than time and one-third.

5. No employer shall engage any employee for any time which when totaled with that already performed with another employer or employers exceeds the maximum herein permitted.

6. No employee shall be permitted to work on more than six (6) days in any seven (7) day period.

7. The Code Authority shall make a study of labor conditions within the Industry to determine the feasibility of the adoption of a shorter working week and adjustments in the rates of pay; and shall, within three months after the effective date of this Code, make a report of its findings to the Administrator.

ARTICLE IV—WAGES

1. No employee in the Industry shall be paid at less than the rate of Fifteen (\$15.00) Dollars per week in cities of five hundred thousand (500,000) population or more, and in the trading area of such cities; Fourteen Dollars and Fifty Cents (\$14.50) in cities of two hundred fifty thousand (250,000) to five hundred thousand (500,000) population, and in the trading areas of such cities; Fourteen (\$14.00) Dollars in cities or places under two hundred fifty thousand (250,000) population, and in the trading areas of such cities.

Except a messenger or an apprentice, who shall be paid not less than Twelve (\$12.00) Dollars per week, provided, however, that no employee shall be classed as an apprentice who has worked for any employer in the Photo Finishing Division for more than six (6) weeks or for any employer in the other divisions of the Industry one (1) year, and provided, further, that such class of apprentices shall not exceed five per cent (5%) of the total number of employees of any employer but any employer may have one apprentice.

(a) No period in excess of one (1) week shall be used as a basis for payment of the minimum rates of pay herein prescribed.

2. This Article establishes a minimum rate of pay per week regardless of whether an employee is compensated on a time rate, piece-work, or other basis.

3. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

4. No employee shall be paid less often than twice a month and shall be paid in cash or negotiable check.

5. In the Photo Finishing Division, the number of employees receiving the minimum wage provided in Section 1 of this Article shall not exceed one (1) for each five (5) employees or fraction thereof employed by each employer.

6. No employee whose full time weekly hours for the four (4) weeks ended June 17, 1933, are reduced by the provisions of this Code by twenty per cent (20%) or less shall have his or her full time weekly earnings reduced. No employee whose said full time weekly hours are reduced by the provisions of this Code in excess of twenty per cent (20%), shall have his or her said earnings reduced by more than fifty per cent (50%) of the amount calculated by multiplying the reduction in hours in excess of twenty per cent (20%) by the hourly rate.

7. The Code Authority shall present to the Administrator within a period of sixty (60) days, a schedule of minimum wages to be paid skilled employees. The Administrator shall grant a hearing to all interested parties and after approval by the Administrator such schedule shall be binding upon the employers.

8. The employer shall make payment of all expenses incurred by an employee while traveling.

ARTICLE V—GENERAL LABOR PROVISIONS

1. No person under sixteen (16) years of age shall be employed in the Industry, nor any person under eighteen (18) years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator within sixty (60) days after the effective date of this Code a list of such operations or occupations. In any State, an employer shall be deemed to have complied with this provision as to age if he shall have on file a certificate or permit duly signed by the Authority in such State empowered to issue employment or age certificates or permits, showing that the employee is of the required age, except that persons under the age of sixteen (16) may be employed solely as models, subject to local laws, and regulations of the Code Authority.

2. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

3. No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

4. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

5. Within each State this Code shall not supersede any laws of such State imposing more stringent requirements upon the employer regulating the age of employees, wages, hours of work, or health, fire or general working conditions, than under this Code.

6. Employers shall not reclassify employees or duties of such occupations performed by employees so as to defeat the purposes of the Act.

7. Each employer shall post, in conspicuous places in his establishment accessible to employees, full copies of Articles III, IV and V of this Code.

8. A manual for the Standards of Sanitation, Health and Safety, shall be filed with the Administrator for approval within six (6) months after the effective date of this Code.

9. Every employer shall provide for the safety and health of his employees at the place and during the hours of their employment.

ARTICLE VI—ADMINISTRATION

ORGANIZATION, POWERS AND DUTIES OF THE CODE AUTHORITY

1. To further effectuate the policies of the Act, a Code Authority is hereby constituted to administer this Code.

2. The Code Authority shall consist of fifteen (15) individuals, or such other number as may be approved from time to time by the Administrator, to be selected as hereinafter set forth. The Administrator, in his discretion, may appoint additional members without vote to represent such groups or governmental agencies as he may designate.

(a) Each member of the Industry who qualifies as specified in Section 5 of this Article shall have one (1) vote (such vote to be in the Division in which he is principally engaged) in the nomination and election of the Photographic Regional Board for the Region in which his business is located. Each such Board shall have three (3) members, one (1) from each of the three Divisions, as set forth in Article II, Section 1 (a), (b), and (c). Regions are hereby established as shown in Schedule A appended hereto, subject to revision by the Code Authority as hereinafter provided. The members of such Photographic Regional Boards shall constitute the National Photographic Council, which Council shall elect the Industry members of the Code Authority, and, in such elections, Council members may vote for the representatives of their Division only.

(b) The Code Committee of the Industry shall arrange for the nomination and election of the members of the National Photographic Council not later than May 15, 1934. The Code Authority thus elected shall take office not later than June 1, 1934. In the interim, the Code Committee of the Industry shall serve as the Code Authority.

The term of office of the elected members of the Code Authority shall be one (1) year commencing June 1, 1934.

(c) Membership in the Code Authority shall be equally divided between the three (3) Divisions of the Industry, and no member shall be eligible to represent a Division on the Code Authority unless at least two-thirds ($\frac{2}{3}$) of the dollar volume of his business is done in such Division.

(d) Each Division shall, in accordance with such regulations as may be prescribed by the Administrator, have exclusive jurisdiction with respect to matters and/or problems relating exclusively to said Division and exclusive disposition of funds paid by members of said Division for Code purposes.

3. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its Articles of Association, By-Laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

4. In order that the Code Authority shall at all times be truly representative of the Industry and in other respects comply with the provisions of the Act, the Administrator may provide such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, he may require an appropriate modification in the method of selection of the Code Authority.

5. Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority, to participate in the selection of the members thereof and to use the N.R.A. Code Insignia, only by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expense of preparation, presentation and administration of this Code. The reasonable share of such expense shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration.

6. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent or employee of the Code Authority. Nor shall any member of the Code Authority be liable to anyone for any action or omission to act under the Code, except for his own willful misfeasance or non-feasance.

7. The Code Authority shall have the following powers and duties to the extent permitted by the Act:

A. To adopt By-Laws and rules and regulations for its procedure and to assist the Administrator in the administration and enforcement of the Code, in accordance with the powers herein granted, and to submit the same to the Administrator for his approval together with true copies of any amendments or additions when made thereto, minutes of meetings when held, and such other information as to its activities as the Administrator may deem necessary to effectuate the purposes of the Act.

B. To obtain from members of the Industry as soon as the necessary readjustments within the Industry can be made, certified reports on all matters pertinent to the provisions of this Code based on periods of one (1), two (2), or four (4) weeks, or one month, or multiples thereof, for use of the Code Authority and the Adminis-

trator in the administration and enforcement of the Code, and for the information of the President. No individual reports shall be disclosed to any other member of the Industry or to any other party except to such governmental agencies as may be directed by the Administrator.

C. To give assistance to members of the Industry in improving methods, or in prescribing a uniform system of accounting, costing, and reporting.

D. To receive complaints of violations of this Code, make investigations thereof, and bring to the attention of the Administrator, recommendations and information relative thereto.

E. To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein and to pay such trade associations and agencies the cost thereof, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

F. To coordinate the administration of this Code with such other Codes, if any, as may be related to the Industry, or any subdivision thereof, and to delegate to any other administrative authority, with the approval of the Administrator, such powers as will promote joint and harmonious action upon matters of common interest.

G. To secure an equitable and proportionate payment of the expenses of maintaining the Code Authority and its activities from members of the Industry.

H. To regulate the use of the N.R.A. Code Insignia.

I. To establish or designate an Agency on planning fair practices and Industry standards and nomenclature which shall cooperate with the Code Authority in developing fair inter and intra-trade practices and industrial planning, including the regularization of employment in the Industry.

J. To initiate, consider and make recommendations for the modification or amendment of this Code after such notice and hearing as may be prescribed by the Administrator. Such modification, if approved by the Administrator, shall become effective as a part of this Code and be binding upon every member of the Industry.

K. To define and determine from time to time the regions provided in Section 2 (a) of this Article, and to define and determine the trade areas for cities in which members of the Industry are, or shall be located, subject to the approval of the Administrator, without regard to city, county, state or sectional lines.

L. To make a study of labor conditions within the Industry to determine the feasibility of the adoption of a shorter working week, and adjustments in the rates of pay; and shall, within three months after the effective date of this Code, make a report of its findings to the Administrator.

8. If the Administrator shall determine that any action of a Code Authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority or agency pending final action, which shall not be effected unless the

Administrator approves or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

ARTICLE VII

In addition to information required to be submitted to any Code Authority, all or any of the persons subject to such Code, agreement, or license shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of said Act to such Federal and State agencies as the Administrator may designate; nor shall anything in any Code, agreement, or license relieve any person of any existing obligation to furnish reports to Government agencies.

ARTICLE VIII—TRADE PRACTICES

1. The following practices, applicable to all Divisions, constitute unfair methods of competition for members of the Industry and are prohibited:

A. To withhold from or insert in an invoice or order statements or entries which make such document a false record, wholly or in part, of the transaction represented on the face thereof.

B. To mark or brand falsely any product of the Industry which has the tendency to mislead or deceive customers or prospective customers, whether as to the grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the Industry or otherwise.

C. To make or cause or knowingly permit to be made or effected any false, materially inaccurate, or deceptive statement by way of advertisement or otherwise, whether concerning the grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the Industry or the credit terms, values, policies, or services of any member of the Industry, or otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers, or to injure competitors.

D. To give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal or party. Commercial bribery provisions shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

E. To induce or attempt to induce the breach of an existing oral or written contract between a competitor and his customers, or source of supply, or others or to interfere with or to obstruct the performance of any such contractual duties or services.

F. To use the word "free" or any expression of like connotation in conjunction with, or with reference to, the sale or offer for sale of any Industry product or service.

G. To copy without the maker's permission, proofs which bear the name of the maker when his establishment is still in existence.

H. To use any subterfuge to frustrate the spirit and intent of this Code, which is, among other things, to increase employment by universal covenant, to remove obstructions to commerce, to shorten hours of work and to raise wages to a living basis.

2. The following practices, applicable to the Portrait Photography Division, constitute unfair methods of competition for members of that Division, and are hereby prohibited:

A. To publish, circulate, or sell coupons, certificates or similar devices to prospective customers with representations that they may be applied in whole or in part on the purchase price of a portrait photograph, except in accordance with the following regulations; but in no event shall a member utilize the coupon or certificate or similar method of sale outside the trading area of the city in which he maintains a permanent studio.

(1) A member desiring to sell his products in conjunction with the use of coupons, certificates or other similar devices, shall file with the Code Authority at least ten days prior to the commencement of the use of such method, or if that be a continuous method, shall so file within fifteen (15) days after the effective date of this Code, on a form to be prescribed by the Code Authority, the information required in Schedule B.

B. To sell or offer to sell Industry products or services outside the trade area wherein is located a permanent studio and/or finishing plant of the member selling or offering to sell such products or services, except in accordance with regulations as prescribed from time to time by the Code Authority, subject to the approval of the Administrator.

C. To subsidize secretly prominent persons for the purpose of using their names and/or photographs for advertising or display purposes.

D. To fail to disclose the name of the member actually selling and producing portraits where such portraits are advertised and sold through any intermediary not a member of the Industry, except where there is a contract between such member and such intermediary which requires the latter to effect final disposition of any complaint with regard to the member's products, services, or methods. The Code Authority shall require such member to furnish evidence of the existence of any such contract.

E. To advertise or otherwise publish the selling price of photographic portraits without stating whether or not such selling price includes folders and/or mountings.

3. The following practices, applicable to the Photo Finishing Division, constitute unfair methods of competition for members of that Division and are prohibited:

A. To allow any credit on any photo-finishing product previously sold for any reason other than the unsatisfactory nature of said product.

B. To fail to affix on containers of Division products the N.R.A. Code Insignia, when entitled to do so in accordance with the provisions of this Code.

ARTICLE IX—ACCOUNTING AND SELLING

1. Within thirty (30) days after the effective date of this Code, each member shall file with the Code Authority or regional boards

or otherwise, as prescribed by the Code Authority, copies of price lists and schedules (including the true name and/or ownership of the business filing such lists and schedules) covering all products or services offered for sale by such members, which lists and schedules shall include all the terms and conditions of sale, the list price and trade discount applicable thereto for each kind and size of each product or service sold or offered for sale, a complete and detailed description of each product or service sold or offered for sale, whether offered singly or in combination with other products or services; complete details and, including differentials for grade, size and quantity.

(a) The Code Authority shall prepare and compile, as soon as practicable, a classification of those Industry products and services not capable of being included in lists and schedules as hereinabove provided. Upon its approval by the Code Authority, this classification shall then be used by the Industry. It may be amended from time to time by the Code Authority. With respect to the products and services included in such classification, each member shall, within thirty (30) days after its approval by the Code Authority, file, as directed by the Code Authority, the basis upon which charges for such products and services are computed.

2. The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating capable of use by all members of the Industry. After such system and methods have been formulated, full details concerning them shall be made available to all members. Thereafter all members shall determine and/or estimate costs in accordance with the principles of such methods.

3. Each member shall file, in accordance with regulations of the Code Authority, ten days prior to the effective date of any new amended or revised prices or terms of conditions of sale, such new list, amendment, or revision before making any quotations, of offering for sale in accordance therewith, except that the ten day period herein provided may be shortened by the Code Authority, to afford opportunity to meet a newly filed price list or schedule.¹

4. Lists and schedules filed in accordance herewith shall be made available to the Industry by the Code Authority.

5. All members of the Industry shall use, in connection with all transactions of sale, an order, invoice, or acknowledgment form on which shall be included specifications concerning terms and conditions of sale, price, trade discounts, payment date, provisions governing delinquency, warranties, guarantees, return or exchange of Industry products, refunds for Industry services and other proper conditions which shall be prescribed by the Code Authority with the approval of the Administrator.

6. No member shall sell any of his products, nor render any services on a basis at variance from the provisions of this Article except in accordance with regulations that may be issued from time to time by the Code Authority, provided, however, that a member may sell at a lower price when necessary to meet competition, but at not less than the lowest price not in violation of this Code offered by any competitor.

¹ See paragraph 2 of order approving this Code.

7. Terms of sale in the Commercial Photography and Photo Finishing Divisions shall not exceed thirty (30) days, end of month.

(a) In the Photo Finishing Division, trade and quantity discounts shall not exceed the provisions of Schedule C hereof.

ARTICLE X

When the Code Authority determines that an emergency exists in this Industry and that the cause thereof is destructive price-cutting such as to render ineffective or seriously endanger the maintenance of the provisions of this Code, the Code Authority may cause to be determined the lowest reasonable cost of the products of this Industry, such determination to be subject to such notice and hearing as the Administrator may require. The Administrator may approve, disapprove, or modify the determination. Thereafter, during the period of the emergency, it shall be an unfair trade practice for any member of the Industry to sell or offer to sell any products of the Industry for which the lowest reasonable cost has been determined at such prices or upon such terms or conditions of sale that the buyer will pay less therefor than the lowest reasonable cost of such products.

When it appears that conditions have changed, the Code Authority, upon its own initiative or upon the request of any interested party, shall cause the determination to be reviewed.

ARTICLE XI—MODIFICATION

1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time, to cancel or modify any order, approval, license, rule, or regulation issued until Title I of said Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon approval thereof.

2. This Code, except as to provisions required by the Act, may be modified upon the basis of experience or changes in circumstances, such modification to be based upon application to the Administrator by the Code Authority and such notice and hearing as he shall specify, and to become effective upon approval by the President.

ARTICLE XII—MONOPOLIES

No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE XIII—EFFECTIVE DATE

This Code shall become effective on the tenth day after its approval by the President.

Approved Code No. 362.

Registry No. 1650-17.

SCHEDULE A

REGIONS

1. Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut.
2. New York—Trade area of New York City, within the State.
3. New York—other than number 2.
4. Pennsylvania—Eastern (all territory East of the Eastern boundary line of the following counties—Potter, Clinton, Center, Mifflin, Juanita and Franklin).
5. Pennsylvania—Western (all territory West of the Eastern boundary line of the following counties—Potter, Clinton, Center, Mifflin, Juanita and Franklin).
6. New Jersey.
7. Delaware, Maryland, District of Columbia.
7. Virginia, West Virginia.
9. North Carolina, South Carolina.
10. Florida, Georgia, Alabama.
11. Michigan.
12. Ohio.
13. Kentucky, Tennessee.
14. Indiana.
15. Wisconsin.
16. Illinois—Trade area of Chicago, within the State.
17. Illinois—other than No. 16.
18. Iowa.
19. Missouri.
20. Oklahoma, Arkansas.
21. Mississippi, Louisiana.
22. Texas.
23. Minnesota, North Dakota, South Dakota.
24. Kansas, Nebraska.
25. Montana, Wyoming, Idaho.
26. Colorado, Utah.
27. New Mexico, Nevada, Arizona.
28. Oregon, Washington.
29. California—North of Bakersfield.
30. California—South of, and including Bakersfield and the city limits.

SCHEDULE B

(a) Name and address of member issuing coupons, certificates or similar devices.

(b) Name and address of each agent employed for such purpose by member.

(c) Amount paid to, or retained by, agent for selling such coupons or certificates or similar devices.

(d) Copies of instructions issued to such agents, which instructions must include a requirement that such agents furnish to the member detailed reports of daily calls.

(e) A statement that all records concerning sale of coupons, certificates or similar devices shall be kept in duplicate.

(f) All coupons, certificates or other similar devices issued by members shall be filed with the Code Authority and shall be subject to its approval in relation to the provisions of this Code and must contain the following provisions:

(1) Precise description of photograph offered, whether mounted or unmounted, and the price of the coupon, certificate or other similar device.

(2) The amount, if any to be paid by customer at studio, and if no additional amount to be paid, coupon, certificate or similar device to so state.

(3) Provisions for refund of amount paid by customer to agent.

(4) The period of time in which a sitting may be had should be indicated by the agent on the coupon, certificate or similar device, at the time of sale to customer, which period shall not exceed ten days beyond the date of the sale.

(5) Provision for extension of such time only at request of customer.

(6) The period of time in which the finished photograph will be ready for delivery, which period shall not exceed ten days after date of sitting.

(7) All coupons, certificates or similar devices shall bear the following:

"Any complaint concerning this transaction may be referred to the Code Authority of the Photographic and Photo Finishing Industry", together with the address of the same.

SCHEDULE C

Basic trade discounts shall not exceed twenty-five per cent (25%) of list price and, conditioned upon the payment of the account by the 15th of the following month, quantity discounts shall not exceed:

5% additional on net volume when monthly gross volume exceeds \$15.00.

10% additional on net volume when monthly gross volume exceeds \$30.00.

15% additional on net volume when monthly gross volume exceeds \$200.00.

20% additional on net volume when monthly gross volume exceeds \$500.00.

For the purposes of this Schedule, each store outlet shall be regarded separately.

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UNIVERSITY OF FLORIDA



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